

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

JOSEPH H. MCDONALD,	)	
	)	
Plaintiff,	)	4:16CV3075
	)	
V.	)	
	)	
NEBRASKA DEPT. OF	)	<b>MEMORANDUM</b>
CORRECTIONS, SCOTT FRAKES,	)	<b>AND ORDER</b>
and BRAD HANSON, et al,	)	
	)	
Defendants.	)	

Plaintiff has filed a motion requesting that the court reconsider its order denying him leave to proceed in forma pauperis. (Filing No. [12](#).) Plaintiff's trust account statement shows that Plaintiff's account contained an average monthly balance of \$2,776.55 for the six-month period immediately preceding the filing of his Complaint. Plaintiff has the financial ability to pay the filing fee in this matter.

Plaintiff has a number of other pending motions in this case, including a Motion for Appointment of Counsel. (Filing No. [3](#).) The court cannot routinely appoint counsel in civil cases. In *Davis v. Scott*, 94 F.3d 444, 447 (8th Cir. 1996), the Eighth Circuit Court of Appeals explained that “[i]ndigent civil litigants do not have a constitutional or statutory right to appointed counsel.” Trial courts have “broad discretion to decide whether both the plaintiff and the court will benefit from the appointment of counsel, taking into account the factual and legal complexity of the case, the presence or absence of conflicting testimony, and the plaintiff’s ability to investigate the facts and present his claim.” *Id.* Having considered these factors, the request for the appointment of counsel will be denied without prejudice to reassertion.

Plaintiff also has filed a “Motion for Pro-Se Work Product Privilege,” in “support of Motion for Appointment of Counsel.” (Filing No. [5 at CM/ECF p. 1](#).) This motion will be denied as moot.

Additionally, Plaintiff has filed a “Motion for Confidential Communication.” (Filing No. [4](#).) While not completely clear, it appears Plaintiff seeks to have confidential conversations with another inmate. This request will be denied.

IT IS THEREFORE ORDERED that:

1. Plaintiff’s Motion to Reconsider (Filing No. [12](#)) is denied.
2. Plaintiff must pay the \$400 filing fee by June 20, 2016. Plaintiff is warned that if the fee is not paid as required, the court may dismiss this case without further notice.
3. No further review of this case will take place until the filing fee is paid.
4. Plaintiff’s Motion for Appointment of Counsel (Filing No. [3](#)) is denied without prejudice to reassertion.
5. The Motion for Pro-Se Work Product Privilege (Filing No. [5](#)) is denied as moot.
6. The Motion for Confidential Communication (Filing No. [4](#)) is denied.

DATED this 26<sup>th</sup> day of May, 2016.

BY THE COURT:

*Richard G. Kopf*  
Senior United States District Judge